

No. 5582-4L-74/20895.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s New Karnal Co-op. Transport Society Ltd., Karnal.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 51 of 1971

between

SHRI BEANT SINGH, WORKMAN AND THE MANAGEMENT OF M/S NEW KARNAL CO-OPERATIVE TRANSPORT SOCIETY LTD., KARNAL

Present :—

Shri Madhu Sudan Saran, *Cowshish for, the workman.*

Shri M. L. Saini and Shri Gurinder Pal Singh, *for the management.*

AWARD

Shri Beant Singh concerned workman was in the service of M/s New Karnal Co-operative Transport Society Ltd., Karnal as a Driver. He was brought under retrenchment with effect from 6th May, 1970,—*vide* notice, dated 6th April, 1970 allegedly as a result of the Nationalisation of the Road Transport by the State Government. He felt aggrieved by this order and raised a dispute for his reinstatement and payment of back wages. The matter was taken up before the Conciliation Officer which, however, ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the above dispute for adjudication to this Tribunal, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947,—*vide* order No. ID/14962, dated 15th May, 1971 with the following terms of reference :—

Whether the retrenchment of Shri Beant Singh, Driver was justified and in order? If not, to what relief is he entitled?

The parties put in their respective pleadings. The workman reiterated his claim for reinstatement on the sole ground that the well settled principle of "Last come first go" had not been observed by the management in bringing about his retrenchment and persons junior to him were retained in service and, therefore, the retrenchment was illegal and wrongful. The management controverted the above allegations of the workman and contested his claim on merits pleading *inter-alia* that the demands, the subject matter of the reference, had not been first raised on the management and rejected by it. The following two issues were framed from the above pleadings of the parties :—

- (1) Whether the present reference is invalid as the demand in question was not first raised on the management and rejected by it? (on management).
- (2) Whether the retrenchment of Shri Beant Singh, Driver was justified and in order? If not, to what relief is he entitled?

Shri Beant Singh concerned workman besides himself coming into the witness box as W.W. 1 has examined 1 witness, namely, Shri Madan Lal Gupta, General Secretary, District Motor Transport Workers Union, Karnal, W.W. 2. He has proved the letter, dated 2nd April, 1970 Ex. W.W.1/1 protesting against his retrenchment besides the demand notice, dated 22nd June, 1970 leading to the present reference. In his cross-examination he has admitted the retrenchment letter Ex. M-1 and receipt of the same by him,—*vide* Ex. M-2. The management examined Shri Dharminder Nath, Labour-cum-Conciliation Officer, Panipat who proved the demand notice, dated 22nd June, 1970 Ex. M.W. 1/1 and the notice of conciliation given to the management Ex. M.W. 1/2. Shri Gurinder Pal Singh, dealing Clerk, was also examined as M.W. 2 who admitted that the demand notice Ex. M.W.1/1 had been received from Shri Beant Singh but the management had not rejected his demand nor had he made any other effort for settlement of the dispute. In cross-examination he has admitted that Ex. W-1 is a copy of the demand notice which had been received from the workman.

After considering the above evidence produced on both sides issue No. 1 was decided against the management and in favour of workman,—*vide* order, dated 3rd April, 1972 holding that the workman concerned had first raised the demand for reinstatement on the management and the same having not been accepted by it and an industrial dispute within the meaning of law did exist which had validly been referred for adjudication to this Tribunal.

Thereafter, the management examined one more witness, namely, Shri Harbhajan Singh, General Manager, who proved the notification of the Government regarding Nationalisation of the Road Transport issued by the Government Ex. M.W. 3/1, Seniority list Ex. M.W. 3/2, copy of the resolution passed by the sub-committee appointed for retrenchment purposes Ex. M.W. 3/3, copy of the retrenchment notice given to this workman Ex. M.W. 3/4, receipt of the same by him Ex. M.W. 3/5, receipt of retrenchment compensation,—vide Voucher No. 17, dated 6th May, 1970, copy Ex. M.W. 3/6, payment of his wages,—vide receipt Ex. M.W. 3/7. He has further stated that no fresh appointment has been made after the retrenchment of Shri Beant Singh. In cross-examination he has stated that a copy of the seniority list was sent to the union and was exhibited on the notice board also. He has further stated that Sarvshri Ujjagar Singh, Baksish Singh, Harbans Singh and Jagdish Singh were senior and not junior to Shri Beant Singh. According to this witness the transport business had been completely closed with effect from 29th November, 1972.

Shri Beant Singh has been recalled as W.W. 3. According to him three drivers, namely, Sarvshri Ujjagar Singh, Jagdish Singh and Harbans Singh were junior to him who had been retained in service and even fresh appointment had been made. He had further stated in cross-examination that even the above named three drivers had been brought under retrenchment with effect from 25th June, 1970 and has further shown his ignorance as to the names of the drivers freshly recruited after his retrenchment.

Arguments have been addressed on both sides. Written arguments have also been filed on behalf of the management. The workman concerned did not feel the necessity of filing any written arguments although opportunity was given to him.

I have given a considered thought to the facts on record and the contention raised by the learned representative of the parties. It is common ground between the parties that under the scheme of the Nationalisation of the Road Transport by the State Government all the route permits of the respondent society have been withdrawn and the transport business have been completely closed with effect from 29th November, 1972.

In view of the above facts admitted on both sides, the question of the reinstatement of Shri Beant Singh as driver or in any other capacity does not arise. For the simple and obvious reason that there being no transport business run by the respondent society for the reasons aforesaid there is no job against which he could be accommodated. As already observed, the workman has admitted receipt of the retrenchment compensation due to him as alleged by the management. His only grievance is that some drivers junior to him had been retained in service and even fresh appointments, had been made after the termination of his service. The burden was on him to prove this fact but on a close scrutiny of the facts brought on record I am constrained to observe that he has simply failed to discharge this burden. The seniority list Ex. M.W. 3/2 produced by the management shows that he was junior to Jagdish Singh, Harbans Singh, Ujjagar Singh and Bakshish Singh. This seniority list had been exhibited by the management on the notice board and a copy had been sent to the union as stated by M.W. 3. He had not filed any objection to the seniority list. His plea that even fresh appointments have been made after the retrenchment of his services has also not been substantiated by any evidence, oral or documentary. He has not even been able to give the names of the persons said to have been freshly recruited by the management. On the other hand, there is specific denial of M.W. 3 on this point and in view of the complete Nationalisation of the Road Transport, the question of making any fresh appointment did not arise.

No other point worth consideration has been urged in this case and in view of any above discussions issue No. 2 is decided against the workman holding that his retrenchment by the management is justified and in order and, in the result, he is not entitled to any relief. The award is made accordingly.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 4th June, 1974.

No. 482, dated the 11th June, 1974.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 4th June, 1974.

No. 5581-41-74/20897.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Ameeteep Machine Tools (P) Ltd., Mathura Road, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD
Reference No. 174 of 1973

between

THE WORKMEN AND THE MANAGEMENT OF M/S AMEETEEP MACHINE
TOOLS (P) LTD., MATHURA ROAD, FARIDABAD

Present :—

Shri Darshan Singh, for the workman.

Shri R. N. Rai assisted by Shri B. S. Sapra, for the management.

AWARD

The workmen of M/s Ameteeep Machine Tools (P) Ltd., Mathura Road, Faridabad, had raised certain demands regarding fixation of grades and scales of pay, payment of bonus at higher rate which was not accepted by the management. Feeling aggrieved they raised a dispute which was referred to this Tribunal for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 by order No. ID/FD/73/40985, dated 11th October, 1973 of the Governor of Haryana with the following terms of reference.

1. Whether the grades and scales of pay of workers should be fixed? If so, with what details?
2. Whether the workmen should be paid bonus for the years 1970-71 and 1971-72 at a higher rates than the minimum bonus already paid, under the payment of Bonus Act, 1961? If so, with what details?

It is, however, not necessary to go into the merits of the case as an amicable settlement has been arrived at between the parties as admitted by Shri Darshan Singh who represents the workman concerned. Shri Roshan Lal Sharma, who had filed objections to the appearance of Shri Darshan Singh, had not appeared to pursue the case on behalf of the workman. Statements have been recorded.

According to the statements of Shri B. S. Sapra, Personnel Officer, of the management and Shri Darshan Singh authorised representative of the workmen the disputes have been settled, as per terms and conditions given in the memorandum of settlement dated 26th April, 1974 Ex. M. 1 on record, which is signed by Shri Harcharan Singh President, Shri Dayal Singh Cashier, Shri Shiv Sehay, Propaganda Secretary and Shri Iqbal Singh, Organising Secretary besides four other workmen and by Shri Joginder Lal, Director, Shri R. N. Rai, Legal Advisor and Shri B. S. Sapra, Personnel Officer, of the management.

The award is, therefore, made in terms and conditions of the above settlement which shall form part of the award. There shall be no order as to costs.

Dated the 6th June, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 481, dated the 11th June, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 6th June, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

AMEETEEP MACHINE TOOLS PRIVATE LTD.
14/7, MATHURA ROAD
FARIDABAD

Memorandum of Settlement

(Under Section 18 (1) of the Industrial Dispute Act, 1947)

Name of the parties:

1. Management of M/s. Ameteeep Machine Tools Pvt. Ltd., 14/7, Mathura Road, Faridabad.
2. Workmen of M/s. Ameteeep Machine Tools Pvt. Ltd., through M/s. Ameteeep workers Union.

Representing the management:

1. Mr. Joginder Lal Manga, Director. Sd/—
2. Mr. R. N. Rai, Industrial Relations Consultant. Sd/—
3. Mr. B. S. Sapra, Personnel Officer. Sd/—

Representing workmen:

1. Shri Harcharan Singh, President of the Union. Sd/—
2. Shri Harbans Lal. Sd/—
3. Shri Saudagar Mal. Sd/—
4. Shri Iqbal Singh. Sd/—
5. Shri Baldev Singh. Sd/—
6. Shri Piara Singh. Sd/—
7. Shri Shiv Sahai. Sd/—
8. Shri Dayal Singh. Sd/—

SHORT RECITAL

The workmen had served a demand notice dated 24th January, 1973 in which they had demanded Dearness Allowance at the rate of at Rs. 50 p. m. to be linked with cost of living index. They had also demanded house rent allowance at Rs. 60 per month and also 14 days sick leaves with pay in a year. The conciliation proceedings having failed, the Government of Haryana rejected the demand for Dearness Allowance and House Rent allowance and referred the demand pertaining the sick leave for adjudication to Industrial Tribunal, Faridabad. The matter is pending before the Industrial Tribunal in reference No. 95 of 1973.

Prior to demand notice dated 24th January, 1973, the workmen through Shri Roshan Lal Sharma styling himself as the President of the Ametep Workers Union, had served a demand notice dated 2nd December, 1972. In this demand notice the workmen had demanded Dearness Allowance at 25% with arrears for the last years, grades and scales to be fixed and revised and bonus according to the Balance Sheet. Upon failure of the Conciliation proceedings, the Haryana Government referred only two demands viz. fixation of grades and scales of pay and bonus for the years 1970-71 and 1971-72 for adjudication. The matter is now pending before the Industrial Tribunal, Faridabad for adjudication in reference No. 174 of 1973. From time to time the workmen through their representative have expressed their desire to settle the matters pending for adjudication before the Industrial Tribunal, Faridabad. Discussions were held between the representative of the management and the workmen. Parties having faith in settling the matters by mutual discussions and with a view to maintain harmonious relations between the management and the workmen have arrived at a settlement on the following terms and conditions:—

TERMS OF SETTLEMENT

1. In spite of the rejection of demand for dearness allowance by the Haryana Government, the management keeping in view the increase in cost of living and as a gesture of good-will has agreed to give an *ad hoc* increase of Rs. 10 to workmen. This increase will be given to each of the permanent workmen along with his annual increment in accordance with the grades and scales of pay as per the settlement which may fall due between 1st April, 1974 to 31st March, 1975.

2. It is agreed that the management will allow workmen 14 days sick leave on half pay in a year in accordance with the provisions of Punjab Industrial Establishment (National and Festival Holidays and casual and sick leave) Act, 1965. It is further agreed that this benefit will be allowed in respect of the 1st two days when the workmen do not get any benefit under the Employee State Insurance Act, 1948. It is further agreed that the sick leave will be availed by the workmen in accordance with rules framed under Punjab Industrial Establishment (National and Festival Holidays and casual and Sick leave) Act, 1965. The Industrial dispute pending before the Industrial Tribunal, Faridabad in reference No. 95 of 1973 in respect of sick leave will stand settled and the workmen shall not claim or raise any dispute in respect of sick leave.

3. The management had introduced on 1st January, 1973 following grades and scales of pay:—

1. APP. TRAINEES

- | | | |
|--------------------|---|--------------------------------------------------------------------------------------------------------|
| (i) Fitter | } | Rs. 115 + 20 = Rs. 175 Bond Agreement to be executed for two years under the Apprenticeship Act, 1961. |
| (ii) Turner | | |
| (iii) Machinist | | |
| (iv) Pattern-maker | | |

2. MAZDOOR (HELPER) UNSKILLED

Rs. $109.50 + 5 - EB = 7 =$ Rs. 175 p. m. presently
Rs. 121 p. m. consolidated.

3. TURNER, SHAPERMAN AND MACHINIST

- | | |
|--------------------|-----------------------------------------------|
| (i) Highly skilled | Rs. $350 + 25 - 450 - EB - 30 =$ Rs. 510 p.m. |
| (ii) Skilled-A | Rs. $250 + 20 =$ Rs. 350 p.m. |
| (iii) Skilled-B | Rs. $205 + 15 =$ Rs. 250 p.m. |
| (iv) Semi-Skilled | Rs. $175 + 10 =$ Rs. 205 p.m. |

(I. T. I. Candidates are preferred in all categories).

4. FITTERS, MOULDERS, PAINTERS,
PATTERN MAKERS AND CARPENTERS

- | | |
|--------------------|-----------------------------------------------|
| (i) Highly skilled | Rs. $325 + 25 - 400 - EB - 30 =$ Rs. 490 p.m. |
| (ii) Skilled-A | Rs. $225 + 20 =$ Rs. 325 p.m. |
| (iii) Skilled-B | Rs. $200 + 12.50 =$ Rs. 225 p.m. |
| (iv) Semi-Skilled | Rs. $150 + 10 =$ Rs. 200 p.m. |

The workmen have accepted the above mentioned grades and scales of pay and agree not to raise any demand or dispute in respect of grades and scales of pay. It is further agreed that the Industrial Dispute in respect of grades and scales of pay pending adjudications in reference No. 174 of 1973 in the Industrial Tribunal, Faridabad will stand settled and the workmen will not re-open or re-agitate this matter.

4. The management had given bonus at the rate of 4% and 8.33% for the years 1970-71, 1971-72 respectively and the workmen have already received this payment in full and final settlement of this claim for bonus in respect of those years.

It is further agreed that the workmen will not claim any bonus in respect of the years 1970-71 and 1971-72 and the Industrial Dispute before the Industrial Tribunal, Faridabad in respect of bonus for the financial years 1970-71 and 1971-72 in reference No. 174 of 1973 stands fully settled.

5. The workmen further agreed to main peace, harmony and improve their productivity.

6. It is agreed that copies of this settlement shall be filed before the Industrial Tribunal, Faridabad in reference No. 95 of 1973 and 174 of 1973 to make an award in lieu of this settlement.

Signed at Faridabad this 25th day of April, 1974.

For and behalf of the workers of
M/s. Ametecp Machine Tools Pvt. Ltd.

1. Sd/-(HARCHARAN SINGH)
2. Sd/-(HARBANS LAL)
3. Sd/-(SAUDAGAR MAL)
4. Sd/-(IQBAL SINGH)
5. Sd/-(BALDEV SINGH)
6. Sd/-(PIARA SINGH)
7. Sd/-(SHIV SAHAI)
8. Sd/-(DAYAL SINGH)

For and behalf of the Management of M/s.
Ametecp Machine Tools Pvt. Ltd.

1. Sd/-(JOGINDER LALL MANGA)
2. Sd/-(R. N. RAI)
3. Sd/-(B. S. SAPRA)

Witness

(Sd.)

M. L. MALIK,

Labour-cum-Conciliation Officer, Faridabad.